IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.No.2564 of 2001
Date of Decision : 10.10.2007

Gurdial Singh and another .....Petitioners

versus

Rajeshwar Dayal and another .....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present : Mr.Parveen Kumar, Advocate for the petitioner.

-.-

JUDGMENT

HEMANT GUPTA, J.

The landlords are in revision aggrieved against the order passed by the learned Appellate Authority whereby the order of ejectment passed by the learned Rent Controller was set aside while accepting the appeal of the tenant.

The petitioners have sought eviction of the tenant on the ground that respondent No.1 was inducted as tenant at a monthly rent of Rs.700/- in the month of November, 1990. It was agreed that the house tax, if imposed, shall be payable by the said respondent. It is alleged that the said respondent has not paid the rent after January, 1993 and, thus, respondent No.1 is liable to be evicted for non payment of rent and the house tax. The petitioner has also sought ejectment of respondent No.1 on the ground that respondent No.1 has sublet the premises to respondent No.2 without the written consent of the petitioners and that the shop in dispute is required for their bonafide use and occupation.

The respondent No.1 in his written statement admitted the relationship between the parties admitting the rate of rent, but denied his liability to pay the house tax. It is the stand of respondent No.1 that respondent No.2 is his partner and business in the shop is joint. On the other hand, the respondent No.2 has denied that he was sub tenant inducted by respondent No.1 and stated that he has directly taken the shop in dispute on monthly rent of Rs.500/- from petitioner No.1 Gurdial Singh in November, 1990. It was denied that respondent No.1 was ever put in possession of the shop as tenant. The requirement of the shop for personal necessity of the petitioners is also denied.

The learned Rent Controller returned a finding that respondent No.2 is direct tenant under Gurdial Singh @ Rs.500/- per month. The learned Rent Controller did not find merit in the plea that the premises are required for bonafide use and occupation of the petitioners. However, the learned Rent Controller found that respondent No.2 has not established payment of rent upto 10.1.1998, as pleaded in the written statement after examining his statement on oath given in the Court and consequently, returned a finding that respondent No.2 was in arrears of rent and, thus he is liable to be evicted. However, the learned Appellate Authority accepted the appeal filed by respondent No.2 herein while relying on a Full Bench Judgment of this Court reported as ***"P.C.Verman (Retd.), Lt.Col.DR. versus Mohinder Singh and others, 1993 (3) P.L.R.-857"***, wherein it was held that a person who is impleaded as sub tenant cannot be evicted for non payment of arrears of rent and consequently, allowed the appeal while setting aside the order of ejectment passed by the learned Rent Controller.

Both the Courts below have recorded a concurrent finding of fact in respect of relationship of landlord and tenant between the petitioners and respondent No.2. It has rightly been held that respondent No.2 is direct tenant of petitioner No.1. Such finding is based upon proper appreciation of evidence. It has been rightly found that the plea of respondent No.1 herein that he was partner of respondent No.2, has been raised in collusion with the petitioners to get the shop in question vacated. Such finding has been returned after examining the statements of Sat Pal, Ram Lal and Subhash Chander, who are the tenants of the adjoining shops under Gurdial Singh, petitioner No.1. It has been deposed that Gurdial Singh owned six shops in the locality and inducted respondent No.2 as tenant in November, 1990. Even Kapil Devi-RW-4, an official of the office of Municipal Council also deposed that respondent No.2 is in possession of the shop in question as per the entries made in the register of the Municipal Council.

In view of the said facts, I do not find any illegality or irregularity in the findings recorded that in fact respondent No.2 is the direct tenant under petitioner No.1.

The necessary consequence of such finding is that respondent No.2 can be evicted for non payment of rent. Respondent No.2 was impleaded in the capacity of sub tenant. The Full Bench Judgment of this Court in *P.C.Verman's case (supra)* held that a person who is impleaded as sub tenant cannot be evicted for non payment of arrears of rent as he has not admitted as tenant.

In view of the above, I do not find that the findings recorded by the learned Appellate Authority in respect of ground of eviction for non

payment of rent, requires any interference by this Court in exercise of its revision jurisdiction. Consequently, the present revision petition is dismissed.

10-10-2007 **(HEMANT GUPTA)**
*mohinder **JUDGE**